



February 2010 E-Newsletter

Website Updates:

- [2009 DRM Order Form](#)
- [2009 Desk Reference Manual](#)
- [KSC Meeting minutes– December 17, 2009](#)
- [Prior E-Newsletters](#)
- [SB123 Update Conference - Topeka June 15, 2010](#)
- [Joint Corrections and Juvenile Oversight Report January 2010](#)



6 more weeks of winter.

SASSI Training —

Emporia, Wichita, & Topeka will offer Substance Abuse Subtle Screening Inventory Training (SASSI) in **March 2010**.

[SASSI Details](#)

SB 123 Update Conference

Wichita, Ks– Tuesday June 15, 2010
9am-noon

Juvenile Field Services Facility

[Conference Details](#)

2009 DESK REFERENCE MANUAL (DRM)

The 2009 DRM is now available online!

The manual is being printed and will be available next month.

A \$15 fee will be charged for each manual ordered. We will also provide the manual on a CD for a \$5 fee. A free copy can be printed at this time located on the Sentencing Commission Website.

[2009 DRM](#)

Case Law Update

State v. Gilley— January 22, 2010 Reno District Court— Affirmed Court of Appeals— Reversed No. 99,156 .

FACTS: Gilley convicted on no contest pleas to three counts of forgery. Relying on two prior forgery convictions, district court imposed sentence for a third forgery conviction under progressive sentencing scheme in K.S.A. 21-3710(b)(4). When Gilley argued the two prior forgery convictions could not be counted in criminal history under K.S.A. 21-4710(d)(11), district court agreed and modified it to category G. In unpublished opinion, Court of Appeals vacated the sentence and remanded for sentencing with criminal history of E. Gilley’s petition for review granted on same issue raised in companion appeal, *State v. Arnett*, No. 99,508.

ISSUES: Progressive sentencing and enhancement of penalties

HELD: Progressive sentencing scheme in K.S.A. 21-3710(b) and enhanced penalties provision in K.S.A. 21-4710(d)(11) are interpreted. When a defendant’s prior forgery convictions are used to increase the mandatory minimum sentence for the crime of conviction in the progressive sentencing scheme in K.S.A. 21-3710(b)(4), enhancing the applicable penalty for the primary forgery offense, the plain language of K.S.A. 21-4710(d)(11) precludes those prior convictions from being used to calculate the defendant’s criminal history score in the same case. Under facts of case, Gilley’s three forgery convictions in the present complaint could not serve as basis for her plea to Count I being a third conviction under K.S.A. 21-3710(b)(4).

STATUTES: K.S.A. 21-3710, -3710(a), -3701(a)(1), -3701(b), -3710(b)(1), -3710(b)(2)-(5), -4602(c), -4710, -4710(a), -4710(d)(11)

Case Law Updates in January 2010

- [State v. Gilley](#)— January 22, 2010 Reno District Court - Affirmed Court of Appeals - reversed No. 99,156 (Criminal History)
- [State v. Robison](#) – January 22, 2010 Lyon District Court - Affirmed No. 101,515 (Capital Murder, Mandatory Minimum, Jessica’s Law, Constitutionality)
- [State v. McMullen](#) – December 18, 2009 Shawnee District Court - Affirmed No. 100,313 (Consecutive & Concurrent, Capital Murder, Mandatory Minimum, Jessica’s Law)

Presentence Investigation Report (PSI)

PSI FORMS HAVE ADDED A CONDITION OF PROBATION OPTION:

PAGE 4, # 7, “OFFICER’S ASSESSMENT OF CONDITIONS OF PROBATION”

OPTION ADDED- “☐ SB 123 OFFENDER REIMBURSEMENT (AT LEAST \$300)”

(This change is reflected on the [2009 PSI forms](#)

located on our website for your convenience.)

Ks Criminal Justice Resource Directory

If your information is listed in this publication and has changed, please use this [revision form](#) to let us know.

Thank you to those who help us keep your information accurate!

[View the Resource Directory.](#)

For additional information www.kansas.gov/ksc.

We welcome your questions – call us at 785-296-0923

To remove your name from our mailing list, please [click here](#).

Questions or comments? E-mail us at sentencing@sentencing.ks.gov

